Application No.: 10/036,009   Docket No.: 65316-0008

REMARKS

The present amendment is intended to be fully responsive to the Office Action having a mailing date of March 11, 2005, wherein claims 1 and 18-21 have been amended, and claim 17 has been canceled. Applicant submits that no new matter has been added by this amendment and that support for the claims may be found throughout the specification and drawings.

35 U.S.C. § 102

Claims 1-9 and 11-21 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application No. 2004/0210449 issued to *Breck et al.* Applicant respectfully traverses.

By this amendment, claims 1 and 18-21 have been amended to include the limitations of now canceled claim 17. Claim 1 now recites an electronic settlement apparatus that includes, "memory for storing discount points representing a property value to be associated with a user to which the said discount points are assigned; and a processor, wherein said processor obtains goods data that designates goods and use point data that designates an amount to be appropriated for the price of the said goods, decides the discount points to be newly assigned to said user based on said obtained goods data, generates temporary balance data representing a result obtained by varying the discount points stored in said memory by amount corresponding to a value obtained by subtracting the discount points designated by use point data from the discount points decided to be newly assigned to said user, and when settlement data, which represents that settlement of purchase of said goods is completed, is supplied, said processor decides that goods represented by said goods data is goods that said user will purchase and updates, in response to the decision of goods that said user will purchase, said discount points stored in said memory according to the result represented by said temporary balance data.". Claims 18-21 recite method and apparatus claims relative to claim 1 that include, among other things, a means that "generates temporary balance data representing a result obtained by varying the discount points stored in said memory by amount corresponding to a value obtained by subtracting the discount points designated by use point data from the discount points decided to be newly assigned to said user, and when settlement data, which represents that settlement of purchase of said goods is completed, is supplied, said processor decides that goods represented

9

Application No.: 10/036,009   Docket No.: 65316-0008

by said goods data is goods that said user will purchase and updates, in response to the decision of goods that said user will purchase, said discount points stored in said memory according to the result represented by said temporary balance data.

Breck et al. discloses a system for facilitating a transaction wherein the system generates a secondary transaction number that is issued to a cardholder. The cardholder presents the secondary transaction number to a merchant to complete a sales transaction. The merchant processes the secondary transaction number wherein the number is typically presented to the credit card provider for authorization. Throughout the process, the cardholder's primary charge card number is never passed to the merchant or any third party.

Applicant submits that Breck et al. does not disclose or teach an electronic settlement apparatus that includes a means for generating temporary balance data representing the result of an expected update to the discount points or means for updating the discount points according to the result represented by the temporary balance data as according to claims 1 and 18-21. Breck et al. discloses an operation of the Secondary Transaction Number (STN) system to pass a credit request to reduce available Membership Rewards (MR) points or to create a credit against the billing transaction that will offset the charge transaction according to the transaction record (See paragraphs 103 and 107). This suggests that each change in the cardholder's balance takes place as a permanent result of a set of transactions and any correction in the balance that could be required afterward will be made by means of creating another credit to offset the error to be corrected.

Further, Breck et al. discloses the operation of checking again an already checked MR account balance at the moment an STN system identifies the associated actual account number for the STN and recognizes the account as the MR account (See paragraph 106). Applicant submits that this has no relation to generating temporary balance data, updating the discount points according to the temporary balance data, or preventing the cardholder's balance from being permanently updated based on an incomplete or interrupted transaction. For at least these reasons, claims 1 and 18-21 are patentable as well as the dependent claims.

10

Application No.: 10/036,009   Docket No.: 65316-0008

          Applicant submits that notwithstanding the foregoing reasons for patentability with respect to the independent claims, the dependent claims are independently patentable. For example, claim 7 recites the electronic settlement apparatus of claim 1 wherein the processor determined whether or not the settlement data is supplied to the processor until a predetermined time has elapsed after obtaining goods data, and when the processor determines that no settlement data is supplied thereto, the processor abandons the obtained corresponding goods data. These limitations are not disclosed in paragraph (105) of *Breck et al.* as asserted on page 5 of the Office Action. Paragraph (105) discloses a membership rewards embodiment of the system wherein the cardholder is able to choose to use the membership reward points when shopping at a merchant site that supports the membership rewards as a payment option. There is nothing in paragraph (105) that describes an electronic settlement apparatus wherein a processor determines whether or not settlement data is supplied to the processor until a predetermined time has elapsed after obtaining goods data, and when the processor determines that no settlement data is supplied thereto, the processor abandons the obtained corresponding goods data. Accordingly, claim 7 embodies patentable subject matter and it is respectfully requested that this application be passed to issue.

11

Application No.: 10/036,009   Docket No.: 65316-0008

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, it is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 65316-0008 from which the undersigned is authorized to draw.

Dated: June 3, 2005   Respectfully submitted,

                                             By

                                             Robert L. Kelly
                                                 Registration No.: 34,412
                                             Lionel D. Anderson
                                                 Registration No.: 50,571
                                             RADER, FISHMAN & GRAUER PLLC
                                             39533 Woodward Avenue
                                             Suite 140
                                             Bloomfield Hills, Michigan 48304
                                             (248) 594-0600
                                             Attorney for Applicant

12